

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Magnesium Elektron North America, Inc.
1001 College Street
Madison, Illinois 62060

ATTENTION:

Chris Barnes
Executive Vice President

Request to Provide Information Pursuant to the Clean Air Act

The U.S. Environmental Protection Agency (EPA) is requiring Magnesium Elektron North America, Inc. (Magnesium Elektron) to submit certain information about its facility at 1001 College Street, Madison, Illinois. Appendix B specifies the information that you must submit. You must send this information to us within 14 calendar days after you receive this request.

We are issuing this information request under Section 114(a) of the Clean Air Act (the Act), 42 U.S.C. § 7414(a). Section 114(a) of the Act authorizes the Administrator of EPA to require the submission of information to determine whether any person is in violation of Clean Air Act requirements. The Administrator has delegated this authority to the Director of the Air and Radiation Division, Region 5.

Magnesium Elektron owns and operates an emission source in Madison, Illinois. We are requesting this information to determine whether this emission source is complying with the Act.

You must send all required information to:

Attn: Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Under 40 C.F.R. Part 2, Subpart B, you may assert a claim of business confidentiality for any portion of the submitted information. You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix A specifies the assertion and substantiation requirements for business confidentiality claims. Magnesium Elektron must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.


We may use any information submitted in response to this request in an administrative, civil, or criminal action.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this request for information without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

Failure to comply fully with this request for information may subject Magnesium Elektron to an enforcement action under section 113 of the Act, 42 U.S.C. § 7413.

You should direct any questions about this request for information to Shilpa Patel at (312) 886.0120.

5/29/09
Date


Cheryl L. Newton
Director
Air and Radiation Division

Appendix A

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering all or part of the information requested in the attached letter, as provided in 40 C.F.R. § 2.203(b). To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a legend to indicate the intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date if any when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by the U. S. Environmental Protection Agency only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208 which provides in part that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking you to substantiate fully your CBI claim. If you receive such a letter, you must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you

identify as being subject to CBI, you must answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Any other issue you deem relevant.

Please note that emissions data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emissions data" means, with

reference to any source of emission of any substance into the air-

Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Emission data includes, but is not limited to, service records stating the amount of refrigerant added to a unit or reclaimed from a unit.

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

Appendix B

Magnesium Elektron must provide the following data regarding its Madison, Illinois facility within 14 days of receipt:

1. Is your facility a secondary nonferrous metals processing facility, as defined in 40 C.F.R. Part 63, Subpart TTTTT? ¹ If so, please respond to questions 2 through 8, below. If not, please so state and explain the basis for that conclusion.
2. Describe the materials processed, manufacturing equipment, air emission controls used and the end-product. This should include but is not limited to the type of furnace, capacity of the furnace and fuel source.
3. Does your facility have crushing and/or screening operations to make zinc or magnesium powders? If so, please describe the materials processed, manufacturing equipment, air emission controls used and the end-product.
4. Provide a copy of any air permits issued by the Illinois Environmental Protection Agency (Illinois EPA) and/or U.S. EPA since 2002. This should include, but is not limited to, construction permits, permits to install, operating permits and/or Title V Permits.
5. Provide a copy of any initial notification and notice of compliance reports submitted to U.S. EPA, your State or your local air pollution control agency for the National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources under 40 C.F.R. Part 63, Subpart TTTTTT.
6. For inspections conducted on each baghouse and/or duct system, provide the following:
 - a. A description of the nature of the inspection;
 - b. An estimate as to the frequency of the inspection; and
 - c. Documentation of all inspections conducted during June 2008, November 2008, January 2009, and March 2009. This includes the following:
 - i. The date, time and place of the inspection;
 - ii. Person conducting the inspection;
 - iii. Technique or method used;
 - iv. Operating conditions during the activity; and
 - v. Results.
7. Provide a copy of any and all performance testing results at tests conducted on your facility's baghouse(s) since 2002. This must include testing done for internal purposes

¹ *Secondary nonferrous metals processing facility* means a brass and bronze ingot making, secondary magnesium processing, or secondary zinc processing plant that uses furnace melting operations to melt post-consumer nonferrous metal scrap to make products including bars, ingots, blocks, or metal powders. *Furnace melting operation* means the collection of processes used to charge post-consumer nonferrous scrap material to a furnace, melt the material, and transfer the molten material to a forming medium.

and any partial or abbreviated test runs.

8. If any performance testing is currently scheduled, provide the following:

- a. Emission unit(s) to be tested;
- b. EPA test method(s) to be used; and
- c. Date of test(s).